

CONVENTION between Her Majesty and the Emperor of the French, relative to the Rights of Fishery on the Coast of Newfoundland and the neighbouring Coasts.

Signed at London, January 14, 1857.

[Ratifications exchanged at London, January 16, 1857.]

HER MAJESTY the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, being desirous to remove for the future all cause of misunderstanding between their respective subjects relative to the fisheries on the coast of the Island of Newfoundland and the neighbouring coasts, by regulating with exactness the rights and privileges of their said subjects, have resolved to conclude a Convention for that purpose, and have named as their Plenipotentiaries, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honorable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honorable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs ; and the Right Honorable Henry Labouchere, a Member of Her Britannic Majesty's Most Honorable Privy Council, a Member of Parliament, Her Britannic Majesty's Principal Secretary of State for the Colonies :

And His Majesty the Emperor of the French, the Sieur John Gilbert Victor Fialin, Count of Pérsigny, a Senator, Grand Cross of the Imperial Order of the Legion of Honour, Grand Cordon of the Imperial Order of the Mejidie of Turkey, Grand Cross of the Order of St. Maurice and St. Lazarus of Sardinia, Grand Cross of the Order of Danebrog of Denmark, His Ambassador to Her Britannic Majesty ;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

ARTICLE I.

French subjects shall have the exclusive right to fish, and to use the strand for fishery purposes, during the season elsewhere specified (Art. 8), on the east coast of Newfoundland, from Cape St. John to the Quirpon Islands. They shall also have the right to fish, and to use the strand for fishery purposes, during the said season, to the exclusion of British subjects, on the north coast of Newfoundland, from the Quirpon Islands to Cape Norman ; and on the west coast, in and upon the five fishing-harbours of Port-au-Choix, Small Harbour (or Petit Port), Port au Port, Red Island, and Cod Roy Island. Such exclusive fish-

ing, from the Quirpon Islands to Cape Norman, shall extend to a distance of three marine miles due north from a straight line joining Cape Norman and Cape Bauld, and as regards the five harbors, shall extend to within a radius of three marine miles in all directions from the centre of each such harbour, but with power to the Commissioners or Umpire elsewhere provided for in this Convention to alter such limits for each harbour in accordance with the existing practice.

ARTICLE II.

British subjects shall have the right, concurrently with French subjects, to fish on the west coast of Newfoundland, from Cape Norman to Cape Ray, except at the five above mentioned points; but French subjects shall have the exclusive use of the strand for fishery purposes during the said season, from Cape Norman to Rock Point, in the Bay of Islands north of the River Humber, in latitude $49^{\circ} 5''$ (about), in addition to the strand of the reserved harbours.

ARTICLE III.

French subjects shall have the right, concurrently with British subjects, to fish on the coasts of Labrador from Blanc Sablon to Cape Charles, and of North Belleisle, together with liberty to dry and cure fish on any of the portions of the coast of North Belleisle aforesaid, which shall not be settled when this Convention shall come into operation. The British Government, however, retains the right to erect thereon buildings for military or public purposes; and if any settlement for permanent habitation shall be thereafter established on any portion of the coast of the said island, the right of French subjects to dry and cure fish on such portion of the coast shall cease, one season's notice of such settlement having been given beforehand to the French Commander on the station.

The said French concurrent right of fishing shall terminate at the embouchures or outlets of rivers and creeks: the place of each embouchure or outlet shall be determined, in the manner elsewhere specified in this Convention, by the Commissioners or Umpire.

ARTICLE IV.

From Rock Point in the Bay of Islands to Cape Ray, Great Britain shall have the unrestricted and exclusive use of the shore, except at the points above named in Article I, and within the land limits assigned for those points (Article X.)

ARTICLE V.

French subjects shall have the right of purchasing bait, both herring and caplin, throughout the south coast of Newfoundland, including for this purpose the French Islands of St. Pierre and Miquelon, at sea or on shore, on equal terms with British subjects, without any restriction on the practice of such fishery by British subjects, and without any duty or restriction being imposed either on British or French subjects in respect of such traffic, or upon the export of such bait, on the part of Great Britain or of the Colony.

Should any circumstances whatever restrict, in a notorious manner previously established to the satisfaction of both the British and French Naval Commanders on the station, during two seasons, consecutive or not, the said supply by purchase, French subjects shall have the right to fish for bait on the portion of the south coast of Newfoundland comprised between Cape St. Mary and Cape La Hune, during the French

fishery seasons ; French fishermen not being allowed to use any other nets than those employed for this kind of fishery ; but this right shall cease as soon as the causes of the deficient supply shall have disappeared.

ARTICLE VI.

The lateral boundaries of the French rights of fishing towards the sea shall be as follows :

At Cape Ray, a straight line drawn thence due west-south-west :

At Cape Norman, a straight line thence due north ;

At Cape St. John's, as may be defined by the Commissioners or Umpire on the basis of existing agreements and practice ;

At Cape Charles, a straight line thence due east ;

At Blanc Sablon, a line as nearly perpendicular to the general direction of the coast as may be, the precise line to be determined by the Commissioners or Umpire.

ARTICLE VII.

From Cape St. John to Rock Point in the Bay of Islands, the French right of fishing shall extend up all rivers or creeks as high as the salt water. From Rock Point to Cape Ray the right shall be limited to half a marine mile above the embouchure or outlet of each river or creek.

The point hereby limited for each river or creek from Cape St. John to Rock Point, and from Rock Point to Cape Ray, shall be settled in the manner elsewhere provided for by the Commissioners or Umpire.

ARTICLE VIII.

The French season of fishery on the coast of Newfoundland, Labrador, and North Belleisle, shall extend from the fifth of April to the fifth of October.

ARTICLE IX.

The naval officers of the French Government shall be entitled to enforce the said French exclusive rights of fishing, as defined in Article I, by expulsion of vessels or boats attempting concurrent fishing, in the case of there being no British cruising-vessel in sight, or made known to be present within a distance of five marine miles.

ARTICLE X.

The strand reserved for French exclusive use for fishery purposes shall extend to one-third of an English mile inland from high-water mark, from Rock Point to Bonne Bay, inclusive, and at the four reserved harbours south of Bonne Bay ; and from Bonne Bay to Cape St. John, to half an English mile inland from high-water mark.

The land lateral boundaries of the reserved harbours shall be settled by the Commissioners or Umpire, in accordance with the existing practice.

The strand shall be laterally bounded, where it reaches the banks of rivers and creeks, by straight lines drawn perpendicularly to the direction of the said rivers and creeks at the place where the French right of fishing ceases, to be determined as to each river or creek, in the manner elsewhere specified, by the Commissioners or Umpire.

ARTICLE XI.

No British buildings or enclosures shall be erected, or maintained, on the strand reserved for French exclusive use, except for the purposes of military defence or of the public administration (in which case due notice of the intended erection thereof shall be first given to the French Government); but such existing buildings or enclosures as have stood and been in occupation upon this strand, without objection on the part of the French Government, for a period of five seasons preceding the date of this present Convention, shall not be liable to be removed without equitable compensation to the owners from the French Government, to be agreed on between the Naval Commanders of Great Britain and France on the station, or their respective delegates.

The French Naval Officers or other delegates duly nominated for this purpose by the French officer commanding-in-chief on the station, shall be entitled to take such measures as occasion may require, to put the French fishermen in possession of any portion of the strand, of which their exclusive use for fishery purposes is recognized by this present Convention, in case of there being no British police establishment, cruising-vessel, or other recognized authority, within a distance of five English miles.

Such measures may include the removal of buildings or enclosures, in conformity with the above stipulations, fifteen days' notice of any such intended removal having been given to any such British authority as aforesaid, if known to be within twenty English miles. Should there be no such authority within that distance, then the French officer commanding-in-chief shall, on the earliest opportunity after any such removal shall have taken place, report the same to the English officer commanding-in-chief.

ARTICLE XII.

No French buildings or enclosures shall be erected, or maintained, for fishery or other purposes, between Cape St. John and Rock Point beyond the limits hereby recognized as those of the French right to the use of the strand. And it shall be lawful for the British or Colonial Government to remove buildings and erections made beyond the said limits by French subjects, fifteen days' notice of any such intended removal having been given to the officer of any French cruising vessel, or other authority appointed for this purpose by the French officer commanding-in-chief, if known to be within twenty English miles. Should there be no such authority known to be within that distance, then the Government (British or Colonial) so removing shall, on the earliest opportunity after such removal shall have taken place, report the same to the French officer commanding-in-chief.

But such buildings or inclosures as have stood and been in occupation beyond the said limits, without objection on the part of the British Government, for a period of five seasons preceding the date of this present Convention, shall not be liable to be removed without equitable compensation to the owners from the British Government, to be agreed on between the Naval Commanders of Great Britain and France on the station, or their respective delegates.

ARTICLE XIII.

If any building or erection, British or French, not in conformity with the stipulations of this present Convention, shall at any time have stood

and been in occupation undisturbed by the French or British Governments respectively for five seasons, it shall not be removed without six months' notice to the occupier.

ARTICLE XIV.

The British Government shall give the most positive orders to prevent injury to the French boats and fishery works during the winter; and in order to facilitate the apprehension of offenders in this respect, the French Government shall be allowed to employ British or French subjects for the custody of such boats and works, whether in the summer or winter, not to exceed in number three persons within any mile of coast. Such persons shall be subject in all respects to the local law of Newfoundland.

ARTICLE XV.

French subjects shall be at liberty to use on the strand reserved as aforesaid to their exclusive use for fishery purposes, any material and instruments they may think proper for their fishery erections; such erections and instruments being made and adapted for the drying and curing, or other preparation of fish, and for those purposes only.

ARTICLE XVI.

The privilege of French subjects to cut wood for the repair of their fishery erections and fishing vessels, from Cape St. John to Rock Point, may be exercised as far as required for the purpose, but not on private land without the consent of the occupier.

With respect to the four reserved harbours between Rock Point and Cape Ray, the same privilege shall be exercised on the mainland or elsewhere, within a radius of three marine miles from the centre of each harbour, such centre to be determined by the Commissioners or Umpire, as elsewhere specified.

ARTICLE XVII.

The provisions of the present Convention shall apply to the islands adjacent to the coasts mentioned, as well as to the coasts themselves, except where otherwise specified. The Islands of Groais and South Belleisle shall be regarded as adjacent to the nearest coast.

ARTICLE XVIII.

In order to settle the various points left by this Convention to be decided by Commissioners or an Umpire, each of the two Governments shall, on the application of the other, at any time after the passing by the Imperial Parliament of Great Britain, and by the Provincial Legislature of Newfoundland, of the laws required to carry this Convention into operation, appoint a Commissioner, to enter immediately on his functions.

Whenever a case shall occur in which the said Commissioners may differ in opinion, they shall name some third person to act as an Arbitrator or Umpire therein. If they should not be able to agree in the choice of such a third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the Arbitrator or Umpire. In the event of the death, absence, or incapacity of either of the Commissioners, or of the Arbitrator or Umpire, or of their or his omitting, declining, or ceasing to act as such Commissioner,

Arbitrator, or Umpire, another and different person shall be appointed or named in the manner hereinbefore specified to act as such Commissioner, Arbitrator, or Umpire, in the place and stead of the person so originally appointed or named as aforesaid.

The said Commissioners or Umpire shall frame regulations for the exercise of concurrent rights by the parties to this Convention, with a view to prevent collisions; such regulations to be approved by the respective Governments, and until so approved to be in force provisionally; but such regulations shall be subject to revision, with the consent of both Governments.

ARTICLE XIX.

—All stipulations of former Treaties shall remain in force so far as they are not superseded or modified by this present Convention.

ARTICLE XX.

The present Convention shall come into operation as soon as the laws required to carry it into effect shall have been passed by the Imperial Parliament of Great Britain, and by the Provincial Legislature of Newfoundland: Her Britannic Majesty hereby engaging to use her best endeavours to procure the passing of such laws in sufficient time to enable Her to bring the Convention into operation on or before the 1st January, 1858.

ARTICLE XXI.

The present Convention shall be ratified, and the ratifications shall be exchanged at London in fifteen days, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the Fourteenth day of January, in the Year of Our Lord, One Thousand Eight Hundred and Fifty-seven.

(L.S.)

CLARENDON.

(L.S.)

HENRY LABOUCHERE.

(L.S.)

F. DE PERSIGNY.

